

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2006-007298

11/14/2011

HONORABLE JAMES T. BLOMO

CLERK OF THE COURT

G. Verbil

Deputy

IN RE THE MARRIAGE OF
RORY BRETT MORRIS

ZALENA MOCCIO KERSTING

AND

DANIELLE LYNN MORRIS

STASY D CLICK

FAMILY COURT SERVICES-CCC

RULING

CHILD SUPPORT

The parties appeared before this Court on October 31, 2011 for an Evidentiary Hearing on Father's Petition to Modify Child Support. The parties entered into a Consent Decree back in April of 2007. Father filed a Petition to Modify Child Support and Parenting Time in July 2011. Prior to the Evidentiary Hearing, the parties' stipulated to a 5/2/2/5 parenting plan for the twins. The sole issue before the Court is that of child support. The parties are in agreement that the effective date of any child support is August 1, 2011.

The parties' are in agreement that Mother's monthly income is \$5,134.13. Mother is asking the Court to find Father's monthly income to be \$5,546.67. Mother is also asking the Court to have Mother pay for the children's health insurance. Currently Father is responsible for paying for health insurance. Mother wants the children on her health plan, CIGNA, because it is comparable in coverage and much less expensive at \$76.63 per month as opposed to \$225.44 per month for United Health Care (United).

Father is asking the Court to lower his monthly income to reflect his correct work schedule. Father contends he works on a contract basis for \$32.00 an hour and does not get holiday/vacation

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pay. Father believes his monthly income, for child support purposes, should be reduced due to the fact that he does not get paid vacation/holidays as a contract employee. Father wants the children to stay on United even though it is more expensive. Father is asking that each parent be responsible for the cost associated regarding one of the children's daycare expenses. Mother is asking that it be included in the child support worksheet.

The Court inquired of Father whether he was willing to pay the full difference between the cost for Cigna and the cost for United. Father testified that he was not willing to make up the difference.

IT IS ORDERED that Mother shall maintain health insurance through CIGNA for the children through her employer. If Father feels strongly enough that United is a better plan and is willing to pay the difference in full then the parties may remain on the United plan.

IT IS FURTHER ORDERED that daycare/afterschool costs are to be split by the parties equally. The parties shall each pay the providers directly for the cost of one child. The Court will not include the costs in the child support calculation. If by proceeding in this fashion the parties' are not able to realize the sibling discount of 10% then Father is solely responsible for the difference.

THE COURT FINDS for child support purposes the following:

Father's Income:	\$ 5,546.67
Mother's Income:	\$ 4,269.11
Health Insurance Paid by Mother	\$ 76.63

In applying these findings under the Arizona Child Support Guidelines,

THE COURT FURTHER FINDS that no deviation is appropriate regarding the obligation to pay child support.

IT IS THEREFORE ORDERED that Father shall pay to Mother as and for child support the sum of **\$150.22** per month, payable through the Support Payment Clearinghouse on the 1st day of each month commencing November 1, 2011 by Wage Assignment.

LET THE RECORD REFLECT that an Electronic Order of Assignment is issued.

IT IS FURTHER ORDERED that at any time an Order of Assignment is not paying the child support obligation in full, Father shall make full and timely payments directly to the Support Payment Clearinghouse in accordance with the attached "Instructions for Making Support Payments through the Clearinghouse."

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All payments shall be made through the Support Clearinghouse via an automatic Order of Assignment issued this date. Father is advised that until such time as the Order of Assignment becomes effective, Father has an affirmative obligation to pay the child support directly to the Support Clearinghouse.

All obligations for child support for each child shall terminate upon a finding of this Court that the child has attained the age of 18 years, or is otherwise emancipated. If any child attains the age of 18 years while attending high school, support shall continue to be provided during the period in which that child is actually attending high school but only until the child reaches 19 years of age. Support for special needs children may continue past the age of 18 based on a finding of this Court. Provisions for health insurance and non-insured health expenses for the children, as provided for below, shall be deemed to be additional child support and shall be enforceable as such.

Pursuant to A.R.S. § 25-503(I), the right of a parent, guardian or custodian to receive child support payments as provided in this Order vests as each installment falls due. Each vested child support installment is enforceable as a final judgment by operation of law.

ARREARAGE/OVERAGE

Father contends that between August 1, 2011 and October 31, 2011 he paid more than he owes in child support. Mother contends that Father still owes for child support for that same time period.

THE COURT FINDS for child support purposes for the time period of August 2011 through October 2011 the following:

Father's Income:	\$ 5,546.67
Mother's Income:	\$ 4,269.11
Health Insurance Paid by Father	\$ 225.63
Daycare Expenses Paid by Mother	\$ 538.00

THE COURT FINDS that Father owes Mother child support in the amount of **\$312.88** for August 2011, September 2011, and October 2011 for a total amount of **\$938.64**. Father has a credit in the amount of **\$312.95**.

IT IS ORDERED granting judgment in favor of Mother and against Father in the amount of **\$625.69** for child support arrearages from August 2011 through October 2011.

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Insurance and Unreimbursed Medical Expenses

IT IS FURTHER ORDERED that Mother shall provide medical insurance for the benefit of the parties' minor child, and shall provide an insurance card and claim filing information/forms to the other parent. All medical, dental and orthodontia expenses incurred for the health and protection of the child not covered by insurance shall be paid 50% by Father and 50% by Mother.

With regard to unreimbursed medical, dental, and vision expenses,

IT IS ORDERED that except for good cause shown, any request for payment or reimbursement of uninsured medical, dental, and/or vision costs must be provided to the other parent within 180 days after the date the services occur. The parent responsible for payment or reimbursement must pay his or her share, as ordered by the Court, or make acceptable payment arrangements with the provider or person entitled to reimbursement within 45 days after receipt of the request.

Both parents should use their best efforts to obtain services that are covered by the insurance. A parent who is entitled to receive reimbursement from the other parent for medical costs not covered by insurance shall, upon request of the other parent, provide receipts or other evidence of payments actually made.

Tax Deduction For Children As Dependents

IT IS ORDERED that the parties may claim the eligible dependent as follows: Father shall claim Kolten every year and Mother shall claim Kaiden every year.

IT IS FURTHER ORDERED that if Father is not current in the total Court-ordered child support obligation for the current calendar year and/or any Court-ordered arrearage payment due during the calendar year for which the exemption is to be claimed but nevertheless claims the children for tax purposes, Father shall pay directly to the Support Payment Clearinghouse 100 percent of any and all tax refunds that Father receives, which shall be applied first towards Father's current child support obligation and then towards any arrearage.

Exchange Of Income Information

IT IS FURTHER ORDERED that the parties shall exchange income information every 24 months. Said financial information shall include, but not be limited to: personal tax returns with all schedules, affidavits of financial information, earning statements and other such documentation necessary to establish or prove the income of either party. In addition, at the time

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of the exchange of financial information, the parties shall also exchange residential addresses and the names and addresses of their respective employers.

ATTORNEY FEES AND COSTS

Both parties have requested an award of attorney fees and costs. An award of attorney fees and costs is governed by A.R.S. § 25-324. Section 25-324 provides as follows:

A. The Court from time to time, after considering the financial resources of both parties and the reasonableness of the positions each party has taken throughout the proceedings, may order a party to pay a reasonable amount to the other party for the costs and expenses of maintaining or defending any proceedings under this chapter or chapter 4, article 1 of this title. On request of a party or another Court of competent jurisdiction, the Court shall make specific findings concerning the portions of any award of fees and expenses that are based on consideration of financial resources and that are based on consideration of reasonableness of positions. The Court may make these findings before, during or after the issuance of a fee award.

B. If the Court determines that a party filed a petition under one of the following circumstances, the Court shall award reasonable costs and attorney fees to the other party:

1. The petition was not filed in good faith.
2. The petition was not grounded in fact or based on law.
3. The petition was filed for an improper purpose, such as to harass the other party, to cause an unnecessary delay or to increase the cost of litigation to the other party.

C. For the purpose of this section, costs and expenses may include attorney fees, deposition costs and other reasonableness expenses as the Court finds necessary to the full and proper presentation of the action, including any appeal.

D. The Court may order all amounts paid directly to the attorney, who may enforce the order in the attorney's name with the same force and effect, and in the same manner, as if the order had been made on behalf of any party to the action.

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Upon consideration of the foregoing,

THE COURT FINDS that there is no substantial disparity of financial resources between the parties.

THE COURT FURTHER FINDS that neither party acted unreasonably during the litigation.

THE COURT FURTHER FINDS that the provisions of A.R.S. § 25-324(B) do not apply.

Accordingly,

IT IS ORDERED denying the parties' requests for attorney fees and costs.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/ S / HONORABLE JAMES T. BLOMO

JUDICIAL OFFICER OF THE SUPERIOR COURT

FILED: Exhibit Worksheet

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorCourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.